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HOUSE BILL 255

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Paul C. Bandy

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; ENACTING THE CULTURAL AFFAIRS AND TOURISM DEPARTMENT ACT; COMBINING THE CULTURAL AFFAIRS AND TOURISM DEPARTMENTS; PROVIDING FOR THE TRANSFER OF MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-60C-3 NMSA 1978 (being Laws 2007, Chapter 103, Section 3, as amended) is amended to read:

"3-60C-3. DEFINITIONS.--As used in the Main Street Revolving Loan Act:

A. "committee" means the main street revolving loan committee;

B. "division" means the historic preservation

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1 division of the cultural affairs and tourism department;

2 C. "eligible property" means a site, structure,
3 building or object that is subject to the Main Street Act or
4 otherwise found pursuant to rule of the committee to merit
5 preservation pursuant to the Main Street Revolving Loan Act;

6 D. "fund" means the main street revolving loan
7 fund;

8 E. "lending institution" means a bank, savings and
9 loan association, credit union or nonprofit organization with
10 lending programs as part of its bylaws; and

11 F. "property owner" means the sole owner, joint
12 owner, owner in partnership or an owner of a leasehold interest
13 with a term of five years or longer of an eligible property."

14 SECTION 2. Section 4-36-2 NMSA 1978 (being Laws 1965,
15 Chapter 87, Section 3, as amended) is amended to read:

16 "4-36-2. COUNTY LIBRARIES--ESTABLISHMENT--CONTRACT
17 SERVICES--GIFTS AND BEQUESTS.--

18 A. A county may establish and maintain a free
19 public library under proper regulation and may receive, hold
20 and dispose of a gift, donation, devise or bequest that is made
21 to the county for the purpose of establishing, increasing or
22 improving the library. The governing body may apply the use,
23 profit, proceeds, interest and rents accruing from such
24 property in any manner that will best improve the library and
25 its use.

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1 B. A county establishing a public library may enter
2 into contracts and joint powers agreements with other counties,
3 municipalities, local school boards, post-secondary educational
4 institutions and the library division of the [~~office of~~]
5 cultural affairs and tourism department for the furnishing of
6 regional library services."

7 SECTION 3. Section 7-1-6.51 NMSA 1978 (being Laws 2005,
8 Chapter 351, Section 1) is amended to read:

9 "7-1-6.51. DISTRIBUTION--MUNICIPAL EVENT CENTER
10 SURCHARGE.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to the public project revolving fund
13 administered by the New Mexico finance authority in an amount
14 equal to seventy-five percent of the amount of event center
15 surcharge proceeds transferred to the tax administration
16 suspense fund pursuant to the Municipal Event Center Funding
17 Act.

18 B. A distribution pursuant to Section 7-1-6.1 NMSA
19 1978 shall be made to the energy, minerals and natural
20 resources department in an amount equal to twenty-four percent
21 of the amount of event center surcharge proceeds transferred to
22 the tax administration suspense fund pursuant to the Municipal
23 Event Center Funding Act.

24 C. A distribution pursuant to Section 7-1-6.1 NMSA
25 1978 shall be made to the cultural affairs and tourism

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1 department in an amount equal to one percent of the amount of
2 event center surcharge proceeds transferred to the tax
3 administration suspense fund pursuant to the Municipal Event
4 Center Funding Act."

5 SECTION 4. Section 7-2-18.2 NMSA 1978 (being Laws 1984,
6 Chapter 34, Section 1, as amended) is amended to read:

7 "7-2-18.2. CREDIT FOR PRESERVATION OF CULTURAL PROPERTY--
8 REFUND.--

9 A. Tax credits for the preservation of cultural
10 property may be claimed as follows:

11 (1) to encourage the restoration,
12 rehabilitation and preservation of cultural properties, a
13 taxpayer who files an individual New Mexico income tax return
14 and who is not a dependent of another individual and who is the
15 owner of a cultural property listed on the official New Mexico
16 register of cultural properties, with the taxpayer's consent,
17 may claim a credit not to exceed a maximum aggregate of twenty-
18 five thousand dollars (\$25,000) in an amount equal to one-half
19 of the cost of restoration, rehabilitation or preservation of a
20 cultural property listed on the official New Mexico register;
21 or

22 (2) if a cultural property, whose owner may
23 otherwise claim the credit set forth in Paragraph (1) of this
24 subsection is also located within an arts and cultural district
25 certified by the state or a municipality pursuant to the Arts

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1 and Cultural District Act, the owner of that cultural property
2 may claim a credit not to exceed fifty thousand dollars
3 (\$50,000), including any credit claimed pursuant to Paragraph
4 (1) of this subsection, in an amount equal to one-half of the
5 cost of restoration, rehabilitation or preservation of the
6 cultural property.

7 B. The taxpayer may claim the credit if:

8 (1) the taxpayer submitted a plan and
9 specifications for restoration, rehabilitation or preservation
10 to the committee and received approval from the committee for
11 the plan and specifications prior to commencement of the
12 restoration, rehabilitation or preservation;

13 (2) the taxpayer received certification from
14 the committee after completing the restoration, rehabilitation
15 or preservation, or committee-approved phase, that it conformed
16 to the plan and specifications and preserved and maintained
17 those qualities of the property that made it eligible for
18 inclusion in the official register; and

19 (3) the project is completed within twenty-
20 four months of the date the project is approved by the
21 committee in accordance with Paragraph (1) of this subsection.

22 C. A taxpayer may claim the credit provided in this
23 section for each taxable year in which restoration,
24 rehabilitation or preservation is carried out. Except as
25 provided in Subsection F of this section, claims for the credit

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1 provided in this section shall be limited to three consecutive
2 years, and the maximum aggregate credit allowable shall not
3 exceed twenty-five thousand dollars (\$25,000) if governed by
4 Paragraph (1) of Subsection A of this section, or fifty
5 thousand dollars (\$50,000) if governed by Paragraph (2) of
6 Subsection A of this section, for any single restoration,
7 rehabilitation or preservation project for any cultural
8 property listed on the official New Mexico register certified
9 by the committee.

10 D. A husband and wife who file separate returns for
11 a taxable year in which they could have filed a joint return
12 may each claim only one-half of the credit that would have been
13 allowed on a joint return.

14 E. A taxpayer who otherwise qualifies and claims a
15 credit on a restoration, rehabilitation or preservation project
16 on property owned by a partnership of which the taxpayer is a
17 member may claim a credit only in proportion to the taxpayer's
18 interest in the partnership. The total credit claimed by all
19 members of the partnership shall not exceed twenty-five
20 thousand dollars (\$25,000) in the aggregate if governed by
21 Paragraph (1) of Subsection A of this section, or fifty
22 thousand dollars (\$50,000) in the aggregate if governed by
23 Paragraph (2) of Subsection A of this section, for any single
24 restoration, rehabilitation or preservation project for any
25 cultural property listed on the official New Mexico register

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1 certified by the committee.

2 F. The credit provided in this section may only be
3 deducted from the taxpayer's income tax liability. Any portion
4 of the maximum tax credit provided by this section that remains
5 unused at the end of the taxpayer's taxable year may be carried
6 forward for four consecutive years; provided, however, the
7 total tax credits claimed under this section shall not exceed
8 twenty-five thousand dollars (\$25,000) if governed by Paragraph
9 (1) of Subsection A of this section, or fifty thousand dollars
10 (\$50,000) if governed by Paragraph (2) of Subsection A of this
11 section, for any single restoration, preservation or
12 rehabilitation project for any cultural property listed on the
13 official New Mexico register.

14 G. The historic preservation division shall
15 promulgate regulations for the implementation of Subsection B
16 of this section.

17 H. As used in this section:

18 (1) "committee" means the cultural properties
19 review committee [~~created in Section 18-6-4 NMSA 1978~~]; and

20 (2) "historic preservation division" means the
21 historic preservation division of the cultural affairs and
22 tourism department [~~created in Section 18-6-8 NMSA 1978~~]."

23 SECTION 5. Section 9-4A-1 NMSA 1978 (being Laws 2004,
24 Chapter 25, Section 1, as amended) is amended to read:

25 "9-4A-1. SHORT TITLE.--Chapter 9, Article 4A NMSA 1978

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1 may be cited as the "Cultural Affairs and Tourism Department
2 Act".

3 SECTION 6. Section 9-4A-2 NMSA 1978 (being Laws 2004,
4 Chapter 25, Section 2) is amended to read:

5 "9-4A-2. PURPOSE.--The purpose of the Cultural Affairs
6 and Tourism Department Act is to create a single, unified
7 department to administer all laws and exercise all functions
8 formerly administered and executed by the [~~office of~~] cultural
9 affairs department and the tourism department."

10 SECTION 7. Section 9-4A-3 NMSA 1978 (being Laws 2004,
11 Chapter 25, Section 3) is amended to read:

12 "9-4A-3. DEFINITIONS.--As used in the Cultural Affairs
13 and Tourism Department Act:

14 A. "department" means the cultural affairs and
15 tourism department; and

16 B. "secretary" means the secretary of cultural
17 affairs and tourism."

18 SECTION 8. Section 9-4A-4 NMSA 1978 (being Laws 2004,
19 Chapter 25, Section 4, as amended) is amended to read:

20 "9-4A-4. DEPARTMENT CREATED.--The "cultural affairs and
21 tourism department" is created in the executive branch. The
22 department is a cabinet department and includes the following
23 divisions:

24 A. the administrative services division;

25 B. the arts division;

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- 1 C. the historic preservation division;
- 2 D. the library division;
- 3 E. the Hispanic cultural division;
- 4 F. the farm and ranch heritage museum division;
- 5 G. the natural history and science museum division;
- 6 H. the museum of space history division;
- 7 I. the museum resources division;
- 8 J. the veterans museum division; ~~and~~
- 9 K. the following divisions that make up the museum

10 of New Mexico:

11 (1) the palace of the governors state history
12 museum division;

13 (2) the New Mexico museum of art division;

14 (3) the museum of Indian arts and culture
15 division;

16 (4) the museum of international folk art
17 division;

18 (5) the archaeological services division; and

19 (6) the state monuments division;

20 L. the tourism development division; and

21 M. the New Mexico magazine division."

22 SECTION 9. A new section of the Cultural Affairs and
23 Tourism Department Act is enacted to read:

24 "[NEW MATERIAL] ADMINISTRATIVELY ATTACHED AGENCIES.--The
25 following are administratively attached pursuant to the

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1 Executive Reorganization Act to the cultural affairs and
2 tourism department:

- 3 A. the New Mexico state fair;
- 4 B. the state racing commission; and
- 5 C. the tourism commission."

6 SECTION 10. Section 9-4A-5 NMSA 1978 (being Laws 2004,
7 Chapter 25, Section 5) is amended to read:

8 "9-4A-5. SECRETARY.--

9 A. The chief executive and administrative officer
10 of the department is the "secretary of cultural affairs and
11 tourism". The secretary shall be appointed by the governor
12 with the consent of the senate. The secretary shall hold the
13 office at the pleasure of the governor and shall serve in the
14 executive cabinet.

15 B. An appointed secretary shall serve and have all
16 the duties, responsibilities and authority of that office
17 during the period of time prior to final action by the senate
18 confirming or rejecting the appointment."

19 SECTION 11. Section 9-4A-6 NMSA 1978 (being Laws 2004,
20 Chapter 25, Section 6, as amended) is amended to read:

21 "9-4A-6. SECRETARY--DUTIES AND GENERAL POWERS.--

22 A. The secretary is responsible to the governor for
23 the operation of the department. It is the secretary's duty to
24 manage all operations of the department and to administer and
25 enforce the laws with which the secretary or the department is

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1 charged.

2 B. To perform the secretary's duties, the secretary
3 has every power expressly enumerated in the laws, whether
4 granted to the secretary or the department, or any division of
5 the department, except where authority conferred upon any
6 division therein is explicitly exempted from the secretary's
7 authority by statute. In accordance with these provisions, the
8 secretary shall:

9 (1) except as otherwise provided in the
10 Cultural Affairs and Tourism Department Act, exercise general
11 supervisory and appointing authority over all department
12 employees, subject to any applicable personnel laws and rules;

13 (2) delegate authority to subordinates as the
14 secretary deems necessary and appropriate, clearly delineating
15 such delegated authority and the limitations thereto;

16 (3) organize the department into those
17 organizational units the secretary deems will enable it to
18 function most efficiently, subject to any provisions of law
19 requiring or establishing specific organizational units;

20 (4) within the limitations of available
21 appropriations and applicable laws, employ and fix the
22 compensation of those persons necessary to discharge the
23 secretary's duties;

24 (5) take administrative action by issuing
25 orders and instructions, not inconsistent with the law, to

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1 ensure implementation of and compliance with the provisions of
2 law for whose administration or execution the secretary is
3 responsible, and to enforce those orders and instructions by
4 appropriate administrative action or actions in the courts;

5 (6) conduct research and studies that will
6 improve the operations of the department and the provision of
7 services to the citizens of the state;

8 (7) provide courses of instruction and
9 practical training for employees of the department and other
10 persons involved in the administration of programs with the
11 objective of improving the operations and efficiency of the
12 administration;

13 (8) prepare an annual budget of the
14 department;

15 (9) provide cooperation, at the request of
16 heads of administratively attached agencies, in order to:

17 (a) minimize or eliminate duplication of
18 services and jurisdictional conflicts;

19 (b) coordinate activities and resolve
20 problems of mutual concern; and

21 (c) resolve by agreement the manner and
22 extent to which the department shall provide budgeting,
23 recordkeeping and related clerical assistance to
24 administratively attached agencies; and

25 (10) appoint, with the governor's consent, for

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1 each division, a "director". These appointed positions are
2 exempt from the provisions of the Personnel Act. Persons
3 appointed to these positions shall serve at the pleasure of the
4 secretary.

5 C. The secretary may:

6 (1) apply for and receive, with the
7 governor's approval, in the name of the department, any public
8 or private funds, including United States government funds,
9 available to the department to carry out its programs, duties
10 or services; and

11 (2) acquire by purchase, gift, endowment or
12 legacy real or personal property and hold title to that
13 property in the name of the department for the purpose of
14 promoting, encouraging and supporting the performing arts in
15 New Mexico. Property acquired pursuant to this paragraph shall
16 be held under the control and authority of the [~~cultural~~
17 ~~affairs~~] department.

18 D. Where functions of departments overlap, or a
19 function assigned to one department could better be performed
20 by another department, a secretary may recommend appropriate
21 legislation to the next session of the legislature for its
22 approval.

23 E. The secretary may make and adopt such
24 reasonable procedural rules as may be necessary to carry out
25 the duties of the department and its divisions. A rule

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1 promulgated by the director of a division in carrying out the
2 functions and duties of the division shall not be effective
3 until approved by the secretary. Unless otherwise provided
4 by statute, a rule affecting a person or agency outside the
5 department shall not be adopted, amended or repealed without
6 a public hearing on the proposed action before the secretary
7 or a hearing officer designated by the secretary. The public
8 hearing shall be held in Santa Fe unless otherwise permitted
9 by statute. Notice of the subject matter of the rule, the
10 action proposed to be taken, the time and place of the
11 hearing, the manner in which interested persons may present
12 their views and the method by which copies of the proposed
13 rule or proposed amendment or repeal of an existing rule may
14 be obtained shall be published once at least thirty days
15 prior to the hearing date in a newspaper of general
16 circulation and mailed at least thirty days prior to the
17 hearing date to all persons who have made a written request
18 for advance notice of hearing. All rules shall be filed in
19 accordance with the State Rules Act."

20 SECTION 12. A new section of the Cultural Affairs and
21 Tourism Department Act is enacted to read:

22 "[NEW MATERIAL] SECRETARY--ADDITIONAL DUTIES.--The
23 secretary shall:

24 A. work with and provide staff support to the
25 tourism commission in formulating and implementing the

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1 state's five-year tourism plan;

2 B. advise the commission of proposed rules,
3 projects and contractual arrangements of the department
4 related to tourism;

5 C. enter into contracts with state, federal or
6 private entities, apply for and accept any state, federal or
7 private funds or grants for tourism-related projects and
8 accept similar donations and bequests from any source;

9 D. maintain and update records on the status of
10 all completed and ongoing tourism projects of the department;

11 E. encourage the preservation and development of
12 Indian arts and crafts among the Indian tribes and pueblos of
13 the state;

14 F. encourage the preservation of traditional
15 rites and ceremonials of Indian tribes and pueblos to
16 increase knowledge and appreciation of those rites and
17 ceremonials; and

18 G. promote the intertribal Indian ceremonial."

19 SECTION 13. Section 9-4A-11 NMSA 1978 (being Laws 1949,
20 Chapter 74, Section 1, as amended) is amended to read:

21 "9-4A-11. LABORATORY OF ANTHROPOLOGY--ACCEPTANCE OF
22 DEED AND TITLE.--The state of New Mexico accepts the deed and
23 bill of sale and the title of the laboratory of anthropology
24 building and land described in the deed dated September 30,
25 1947 and directs that the property become part of the museum

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1 of New Mexico and be controlled and administered by the
2 [~~cultural affairs~~] department."

3 SECTION 14. Section 9-4A-14 NMSA 1978 (being Laws 2004,
4 Chapter 25, Section 14) is amended to read:

5 "9-4A-14. PALACE OF THE GOVERNORS STATE HISTORY MUSEUM
6 DIVISION CREATED--LOCATION--BOARD OF REGENTS.--

7 A. The "palace of the governors state history
8 museum division" is created in the [~~cultural affairs~~]
9 department. The palace of the governors state history museum
10 located in Santa Fe shall be operated as a division of the
11 [~~cultural affairs~~] department under the imprimatur of the
12 museum of New Mexico. The museum of New Mexico board of
13 regents shall exercise trusteeship over the palace of the
14 governors state history museum.

15 B. The director of the division shall meet the
16 following minimum qualifications:

17 (1) hold a bachelor's or higher degree in a
18 discipline related to the function of the division; and

19 (2) have significant experience in the
20 management and operation of an organization similar to the
21 division.

22 C. The director shall be appointed by the
23 secretary [~~of cultural affairs~~] from a list of no [~~less~~]
24 fewer than three names provided by the museum of New Mexico
25 board of regents."

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1 SECTION 15. Section 9-4A-15 NMSA 1978 (being Laws 2004,
2 Chapter 25, Section 15) is amended to read:

3 "9-4A-15. MUSEUM OF INTERNATIONAL FOLK ART DIVISION
4 CREATED--LOCATION--BOARD OF REGENTS.--

5 A. The "museum of international folk art
6 division" is created in the [~~cultural affairs~~] department.
7 The museum of international folk art located in Santa Fe
8 shall be operated as a division of the [~~cultural affairs~~]
9 department under the imprimatur of the museum of New Mexico.
10 The museum of New Mexico board of regents shall exercise
11 trusteeship over the museum of international folk art.

12 B. The director of the division shall meet the
13 following minimum qualifications:

14 (1) hold a bachelor's or higher degree in a
15 discipline related to the function of the division; and

16 (2) have significant experience in the
17 management and operation of an organization similar to the
18 division.

19 C. The director shall be appointed by the
20 secretary [~~of cultural affairs~~] from a list of no [~~less~~]
21 fewer than three names provided by the museum of New Mexico
22 board of regents."

23 SECTION 16. Section 9-4A-16 NMSA 1978 (being Laws 2004,
24 Chapter 25, Section 16) is amended to read:

25 "9-4A-16. MUSEUM OF INDIAN ARTS AND CULTURE DIVISION

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1 CREATED--LOCATION--BOARD OF REGENTS.--

2 A. The "museum of Indian arts and culture
3 division" is created in the [~~cultural affairs~~] department.
4 The museum of Indian arts and culture located in Santa Fe
5 shall be operated as a division of the [~~cultural affairs~~]
6 department under the imprimatur of the museum of New Mexico.
7 The museum of New Mexico board of regents shall exercise
8 trusteeship over the museum of Indian arts and culture.

9 B. The director of the division shall meet the
10 following minimum qualifications:

11 (1) hold a bachelor's or higher degree in a
12 discipline related to the function of the division; and

13 (2) have significant experience in the
14 management and operation of an organization similar to the
15 division.

16 C. The director shall be appointed by the
17 secretary [~~of cultural affairs~~] from a list of no [~~less~~]
18 fewer than three names provided by the museum of New Mexico
19 board of regents."

20 **SECTION 17.** Section 9-4A-17 NMSA 1978 (being Laws 2004,
21 Chapter 25, Section 17) is amended to read:

22 "9-4A-17. STATE MONUMENTS DIVISION CREATED--BOARD OF
23 REGENTS.--

24 A. The "state monuments division" is created in
25 the [~~cultural affairs~~] department. The division shall manage

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1 the state's monuments, including:

- 2 (1) Coronado state monument;
- 3 (2) Jemez state monument;
- 4 (3) Fort Selden state monument;
- 5 (4) Fort Sumner state monument and Bosque
- 6 Redondo memorial;
- 7 (5) Lincoln state monument;
- 8 (6) El Camino Real international heritage
- 9 center; ~~and~~
- 10 (7) the Taylor Reynolds Barela Mesilla state
- 11 monument; and
- 12 (8) Fort Stanton state monument.

13 B. The state monuments shall operate under the
14 imprimatur of the museum of New Mexico. The museum of New
15 Mexico board of regents shall exercise trusteeship over the
16 state monuments.

17 C. The director of the division shall meet the
18 following minimum qualifications:

- 19 (1) hold a bachelor's or higher degree in a
- 20 discipline related to the function of the division; and
- 21 (2) have significant experience in the
- 22 management and operation of an organization similar to the
- 23 division.

24 D. The director shall be appointed by the
25 secretary ~~[of cultural affairs]~~ from a list of no ~~[less]~~

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1 fewer than three names provided by the museum of New Mexico
2 board of regents."

3 SECTION 18. Section 9-4A-18 NMSA 1978 (being Laws 2004,
4 Chapter 25, Section 18) is amended to read:

5 "9-4A-18. ARCHAEOLOGICAL SERVICES DIVISION CREATED--
6 BOARD OF REGENTS.--

7 A. The "archaeological services division" is
8 created in the [~~cultural affairs~~] department. The division
9 shall be operated as a division of the [~~cultural affairs~~]
10 department under the imprimatur of the museum of New Mexico.

11 B. The museum of New Mexico board of regents
12 shall exercise trusteeship over the archaeological services
13 division.

14 C. The director of the division shall meet the
15 following minimum qualifications:

16 (1) hold a bachelor's or higher degree in a
17 discipline related to the function of the division; and

18 (2) have significant experience in the
19 management and operation of an organization similar to the
20 division.

21 D. The director shall be appointed by the
22 secretary [~~of cultural affairs~~] from a list of no [~~less~~]
23 fewer than three names provided by the museum of New Mexico
24 board of regents."

25 SECTION 19. Section 9-4A-20 NMSA 1978 (being Laws 2005,

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1 Chapter 121, Section 1) is amended to read:

2 "9-4A-20. MUSEUM COLLECTIONS FUND--CREATED--PURPOSE--
3 NATIONAL MUSEUM ETHICAL GUIDELINES.--

4 A. The "museum collections fund" is created in
5 the state treasury. The fund is a nonreverting fund, and
6 income from investment of the fund shall be credited to the
7 fund. The fund shall be administered by the [~~cultural~~
8 ~~affairs~~] department, and money in the fund is appropriated to
9 the department as provided in Subsection B of this section.

10 B. The purpose of the fund is to receive proceeds
11 from the deaccessioning of museum collection items of each
12 state museum and to fund new acquisitions for the museums.
13 To comply with national museum ethical guidelines, each
14 museum may have a subaccount in the museum collections fund
15 into which the proceeds of the deaccessioning of its
16 collection items and income from investment of the proceeds
17 are credited and out of which the museum may expend money for
18 the sole purpose of acquiring objects for that museum's
19 collection. Money in the fund shall be expended on warrant
20 of the secretary of finance and administration pursuant to
21 vouchers signed by the director of the appropriate museum
22 division and the secretary [~~of cultural affairs~~] or the
23 secretary's authorized representative."

24 SECTION 20. A new section of the Cultural Affairs and
25 Tourism Department Act is enacted to read:

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1 "[NEW MATERIAL] TOURISM ENTERPRISE FUND CREATED--
2 ADMINISTRATION.--The "tourism enterprise fund" is created as
3 a nonreverting fund in the state treasury. The fund consists
4 of appropriations, gifts, grants, donations, fees and
5 departmental receipts from sales of souvenirs and sundries at
6 visitors centers, web-site-related sales and television
7 special program rights and any other money credited to the
8 fund. The fund shall be administered by the department, and
9 money in the fund is appropriated to the department to carry
10 out the duties of the department. Disbursements from the
11 fund shall be made only upon warrant drawn by the secretary
12 of finance and administration pursuant to vouchers signed by
13 the secretary of cultural affairs and tourism or the
14 secretary's designated representative."

15 SECTION 21. A new section of the Cultural Affairs and
16 Tourism Department Act is enacted to read:

17 "[NEW MATERIAL] TOURISM COMMISSION CREATED--MEMBERSHIP--
18 ADMINISTRATIVELY ATTACHED--DUTIES.--

19 A. The "tourism commission" is created. The
20 commission is a planning commission administratively attached
21 to the department. The commission shall provide advice to
22 the department on policy matters. The commission is
23 responsible for the annual approval and update of the state's
24 five-year tourism plan. The commission consists of seven
25 members appointed by the governor and confirmed by the senate

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1 who are qualified electors of the state, no more than four of
2 whom, at the time of their appointment, are members of the
3 same political party and at least one of whom shall be a
4 Native American. Two members shall be appointed from each of
5 the three congressional districts and one member shall be
6 appointed from the state at large. Appointments shall be
7 made for seven-year terms expiring on January 1 of the
8 appropriate year. Commission members shall serve staggered
9 terms as determined by the governor at the time of their
10 initial appointment. The governor shall designate the chair
11 of the commission each year from among its members. Members
12 of the commission shall not be removed except for cause.
13 Vacancies on the commission shall be filled by appointment by
14 the governor for the unexpired term.

15 B. The commission shall meet at the call of the
16 chair not less than once each quarter and shall invite
17 representatives of appropriate legislative committees, other
18 state agencies and interested persons to its meetings for the
19 purpose of information exchange and coordination. Commission
20 members shall not vote by proxy. A majority of the members
21 constitutes a quorum for the conduct of business. Members
22 are entitled to receive per diem and mileage as provided in
23 the Per Diem and Mileage Act but shall receive no other
24 compensation, perquisite or allowance.

25 C. The commission shall:

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1 (1) develop and recommend policies and
2 provide policy and program guidance for the department; and

3 (2) review, modify and approve annual
4 updates to the state's five-year tourism plan generated by
5 the department."

6 SECTION 22. Section 9-6-12 NMSA 1978 (being Laws 2003,
7 Chapter 126, Section 1) is amended to read:

8 "9-6-12. FORT STANTON DEVELOPMENT COMMISSION--
9 CREATED.--

10 A. There is created the "Fort Stanton development
11 commission", which shall be administratively attached to the
12 [~~office of~~] cultural affairs and tourism department.

13 B. The commission shall consist of seven members
14 selected as follows:

15 (1) the chair of the Lincoln county
16 commission or the designee of the chair;

17 (2) the mayor of the village of Ruidoso or
18 the designee of the mayor;

19 (3) the secretary of energy, minerals and
20 natural resources or the designee of the secretary;

21 (4) the state historic preservation officer
22 or the designee of the officer; and

23 (5) three members at large who are residents
24 of Lincoln county and are appointed by the governor.

25 C. The [~~chairman~~] chair of the commission shall

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1 be elected annually from among the commission membership.

2 D. Appointed members shall serve for terms of six
3 years each but the initial appointment shall be for two, four
4 and six years to accomplish staggered terms. Vacancies in an
5 appointed member's seat shall be filled for the remainder of
6 the unexpired term in the same manner as the original
7 appointment was made.

8 E. Appointed members shall receive no
9 compensation but may be paid per diem and mileage as provided
10 for nonsalaried officers in the Per Diem and Mileage Act."

11 SECTION 23. Section 9-6-13 NMSA 1978 (being Laws 2003,
12 Chapter 126, Section 2) is amended to read:

13 "9-6-13. DUTIES AND POWERS.--

14 A. The Fort Stanton development commission shall:

15 (1) plan, assemble, dispose of and acquire
16 furnishings, art, landscaping materials and plants and other
17 decorations for the public areas of Fort Stanton;

18 (2) monitor and report on the status of
19 maintenance of Fort Stanton and recommend to the legislature
20 actions necessary to repair, maintain and renovate the
21 grounds and improvements; and

22 (3) develop statewide interest in Fort
23 Stanton and develop a comprehensive plan for the most
24 appropriate and beneficial use of Fort Stanton.

25 B. The commission may:

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1 (1) utilize the assistance of individuals,
2 the [~~office of~~] cultural affairs and tourism department,
3 other state agencies and nonprofit charitable corporations in
4 carrying out its duties;

5 (2) accept on behalf of the state from any
6 private or other public sources money, gifts, donations and
7 bequests for use by the commission in carrying out its
8 duties; and

9 (3) enter into public promotions of its
10 endeavors and publish such materials as it deems appropriate
11 to promote the purposes of the commission."

12 SECTION 24. Section 9-15-30 NMSA 1978 (being Laws
13 1988, Chapter 80, Section 4, as amended) is amended to read:

14 "9-15-30. MEXICAN AFFAIRS DIVISION CREATED--DUTIES.--

15 A. The "Mexican affairs division" is created as a
16 division of the department.

17 B. The division shall be responsible for
18 conducting and coordinating the state's relations with the
19 Republic of Mexico and the state of Chihuahua and shall
20 promote New Mexico products and services in Mexico. The
21 division is created to coordinate activities of the
22 department, [~~the tourism department~~] the cultural affairs
23 and tourism department, the department of transportation, the
24 department of health, the department of environment, the
25 department of public safety, the New Mexico-Chihuahua

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1 commission, the border authority and the joint border
2 research institute at New Mexico state university as those
3 activities relate to improving New Mexico-Mexico relations
4 and trade and encouraging or funding appropriate border
5 development.

6 C. The division shall provide periodic reports to
7 the New Mexico finance authority oversight committee on its
8 activities and the activities of the state pertaining to New
9 Mexico-Mexico relations, trade and border development."

10 SECTION 25. Section 9-15-35 NMSA 1978 (being Laws
11 1991, Chapter 27, Section 1) is amended to read:

12 "9-15-35. PROGRAM CREATED--PURPOSES.--

13 A. The "New Mexico artisans business development
14 program" is created within the economic development [~~and~~
15 ~~tourism~~] department to promote, in conjunction with the arts
16 division of the [~~office of~~] cultural affairs and tourism
17 department, the New Mexico artisans industry by establishing
18 a greater demand for New Mexico artisans' wares and by
19 providing technical and marketing assistance to New Mexico
20 artisans.

21 B. The purposes of the program shall include, but
22 not be limited to, the following:

23 (1) establishment of a not-for-profit
24 organization to carry out the objectives of the New Mexico
25 artisans business development program;

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1 (2) educational workshops and seminars in
2 cooperation with the small business development centers for
3 artisans to assist the centers in the development of their
4 businesses and marketing of their wares;

5 (3) an assessment of a full range of
6 marketing strategies for artisan wares and relating those
7 wares to target markets;

8 (4) production of a promotional brochure of
9 New Mexico artisans and their products;

10 (5) development and publishing of a
11 marketing catalog of New Mexico artisans;

12 (6) establishment of a network of state and
13 national distribution points and gift and trade shows for the
14 promotion and export of New Mexico artisans' wares;

15 (7) development of a state and national
16 marketing and exhibitions calendar;

17 (8) participation in state and national
18 promotional shows by New Mexico artisans; and

19 (9) development of a marketing network with
20 private-sector distributors, catalog producers and
21 retailers."

22 SECTION 26. Section 13-1-98 NMSA 1978 (being Laws
23 1984, Chapter 65, Section 71, as amended) is amended to read:

24 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
25 provisions of the Procurement Code shall not apply to:

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1 A. procurement of items of tangible personal
2 property or services by a state agency or a local public body
3 from a state agency, a local public body or external
4 procurement unit except as otherwise provided in Sections
5 13-1-135 through 13-1-137 NMSA 1978;

6 B. procurement of tangible personal property or
7 services for the governor's mansion and grounds;

8 C. printing and duplicating contracts involving
9 materials that are required to be filed in connection with
10 proceedings before administrative agencies or state or
11 federal courts;

12 D. purchases of publicly provided or publicly
13 regulated gas, electricity, water, sewer and refuse
14 collection services;

15 E. purchases of books and periodicals from the
16 publishers or copyright holders thereof;

17 F. travel or shipping by common carrier or by
18 private conveyance or to meals and lodging;

19 G. purchase of livestock at auction rings or to
20 the procurement of animals to be used for research and
21 experimentation or exhibit;

22 H. contracts with businesses for public school
23 transportation services;

24 I. procurement of tangible personal property or
25 services, as defined by Sections 13-1-87 and 13-1-93 NMSA

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1 1978, by the corrections industries division of the
2 corrections department pursuant to rules adopted by the
3 corrections industries commission, which shall be reviewed by
4 the purchasing division of the general services department
5 prior to adoption;

6 J. minor purchases not exceeding five thousand
7 dollars (\$5,000) consisting of magazine subscriptions,
8 conference registration fees and other similar purchases
9 where prepayments are required;

10 K. municipalities having adopted home rule
11 charters and having enacted their own purchasing ordinances;

12 L. the issuance, sale and delivery of public
13 securities pursuant to the applicable authorizing statute,
14 with the exception of bond attorneys and general financial
15 consultants;

16 M. contracts entered into by a local public body
17 with a private independent contractor for the operation, or
18 provision and operation, of a jail pursuant to Sections
19 33-3-26 and 33-3-27 NMSA 1978;

20 N. contracts for maintenance of grounds and
21 facilities at highway rest stops and other employment
22 opportunities, excluding those intended for the direct care
23 and support of persons with handicaps, entered into by state
24 agencies with private, nonprofit, independent contractors who
25 provide services to persons with handicaps;

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1 O. contracts and expenditures for services or
2 items of tangible personal property to be paid or compensated
3 by money or other property transferred to New Mexico law
4 enforcement agencies by the United States department of
5 justice drug enforcement administration;

6 P. contracts for retirement and other benefits
7 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

8 Q. contracts with professional entertainers;

9 R. contracts and expenditures for litigation
10 expenses in connection with proceedings before administrative
11 agencies or state or federal courts, including experts,
12 mediators, court reporters, process servers and witness fees,
13 but not including attorney contracts;

14 S. contracts for service relating to the design,
15 engineering, financing, construction and acquisition of
16 public improvements undertaken in improvement districts
17 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and
18 in county improvement districts pursuant to Subsection L of
19 Section 4-55A-12.1 NMSA 1978;

20 T. works of art for museums or for display in
21 public buildings or places;

22 U. contracts entered into by a local public body
23 with a person, firm, organization, corporation or association
24 or a state educational institution named in Article 12,
25 Section 11 of the constitution of New Mexico for the

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1 operation and maintenance of a hospital pursuant to Chapter
2 3, Article 44 NMSA 1978, lease or operation of a county
3 hospital pursuant to the Hospital Funding Act or operation
4 and maintenance of a hospital pursuant to the Special
5 Hospital District Act;

6 V. purchases of advertising in all media,
7 including radio, television, print and electronic;

8 W. purchases of promotional goods intended for
9 resale by the cultural affairs and tourism department;

10 X. procurement of printing services for materials
11 produced and intended for resale by the cultural affairs and
12 tourism department;

13 Y. procurement by or through the public education
14 department from the federal department of education relating
15 to parent training and information centers designed to
16 increase parent participation, projects and initiatives
17 designed to improve outcomes for students with disabilities
18 and other projects and initiatives relating to the
19 administration of improvement strategy programs pursuant to
20 the federal Individuals with Disabilities Education Act;
21 provided that the exemption applies only to procurement of
22 services not to exceed two hundred thousand dollars
23 (\$200,000);

24 Z. procurement of services from community
25 rehabilitation programs or qualified individuals pursuant to

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1 the State Use Act;

2 AA. purchases of products or services for
3 eligible persons with disabilities pursuant to the federal
4 Rehabilitation Act of 1973;

5 BB. procurement, by either the department of
6 health or Grant county or both, of tangible personal
7 property, services or construction that are exempt from the
8 Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

9 CC. contracts for investment advisory services,
10 investment management services or other investment-related
11 services entered into by the educational retirement board,
12 the state investment officer or the retirement board created
13 pursuant to the Public Employees Retirement Act;

14 DD. the purchase for resale by the state fair
15 commission of feed and other items necessary for the upkeep
16 of livestock; and

17 EE. contracts entered into by the crime victims
18 reparation commission to distribute federal grants to assist
19 victims of crime, including grants from the federal Victims
20 of Crime Act of 1984 and the federal Violence Against Women
21 Act."

22 SECTION 27. Section 13-4A-3 NMSA 1978 (being Laws
23 1986, Chapter 11, Section 3, as amended) is amended to read:

24 "13-4A-3. DEFINITIONS.--As used in the Art in Public
25 Places Act:

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1 A. "agency" means all state departments and
2 agencies, boards, councils, institutions, commissions and
3 quasi-public corporations, including all state educational
4 institutions enumerated in Article 12, Section 11 of the
5 constitution of New Mexico, and all statutorily created post-
6 secondary educational institutions;

7 B. "architect" means the person or firm designing
8 the project for the contracting agency to which the one
9 percent provision pursuant to Section 13-4A-4 NMSA 1978
10 applies;

11 C. "contracting agency" means the agency having
12 the control, management and power to enter into contracts for
13 new construction or renovation of any public building;

14 D. "division" means the arts division of the
15 [~~office of~~] cultural affairs and tourism department;

16 E. "public buildings" means those buildings under
17 the control and management of the property control division of
18 the general services department, the department of game and
19 fish, the energy, minerals and natural resources department, the
20 [~~state highway and~~] department of transportation [~~department~~],
21 the state fair commission, the supreme court, the commissioner
22 of public lands, the [~~office of~~] cultural affairs and tourism
23 department, the governing boards of the state educational
24 institutions and statutorily created post-secondary educational
25 institutions, the [~~state department of~~] public education

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1 department and the legislature or all buildings constructed with
2 funds appropriated by the legislature. For the purposes of the
3 Art in Public Places Act, "public buildings" does not include
4 such auxiliary buildings as maintenance plants, correctional
5 facilities, warehouses or temporary structures; and

6 F. "work of art" means any work of visual art,
7 including but not limited to a drawing, painting, mural,
8 fresco, sculpture, mosaic or photograph; a work of
9 calligraphy; a work of graphic art, including an etching,
10 lithograph, offset print, silk screen or a work of graphic
11 art of like nature; works in clay, textile, fiber, wood,
12 metal, plastic, glass and like materials; or mixed media,
13 including a collage or assemblage or any combination of the
14 foregoing art media [~~which~~] that is chosen to be included in
15 or immediately adjoining the public building under
16 consideration. Under special circumstances, the term may
17 include environmental landscaping if approved by the
18 division."

19 **SECTION 28.** Section 15-3B-2 NMSA 1978 (being Laws 1972,
20 Chapter 74, Section 2, as amended) is amended to read:

21 "15-3B-2. DEFINITIONS.--As used in the Property Control
22 Act:

23 A. "capital outlay project" means the acquisition,
24 improvement, alteration or reconstruction of assets of a
25 long-term character that are intended to continue to be held

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1 or used, including land, buildings, machinery, furniture and
2 equipment. A "capital outlay project" includes all proposed
3 expenditures related to the entire undertaking;

4 B. "department" means the general services
5 department;

6 C. "director" means the director of the division;

7 D. "division" means the property control division
8 of the department;

9 E. "jurisdiction" means all state buildings and
10 land except those under the control and management of the
11 state armory board, the border authority, the cultural
12 affairs and tourism department, the state fair commission,
13 the department of game and fish, the department of
14 transportation, the commissioner of public lands, the state
15 parks division of the energy, minerals and natural resources
16 department, the state institutions of higher learning,
17 regional education cooperatives, the New Mexico school for
18 the deaf, the New Mexico school for the blind and visually
19 impaired, the judicial branch, the legislative branch,
20 property acquired by the economic development department
21 pursuant to the Statewide Economic Development Finance Act
22 and property acquired by the public school facilities
23 authority pursuant to the Public School Capital Outlay Act;
24 and

25 F. "secretary" means the secretary of general

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1 services."

2 SECTION 29. Section 15-5A-7 NMSA 1978 (being Laws 2007,
3 Chapter 160, Section 7) is amended to read:

4 "15-5A-7. ARTS AND CULTURAL DISTRICT FUND
5 ESTABLISHED.--The "arts and cultural district fund" is
6 created as a nonreverting fund in the state treasury. The
7 fund consists of appropriations, gifts, grants, donations and
8 bequests. The fund shall be administered by the cultural
9 affairs and tourism department, and money in the fund is
10 appropriated to the cultural affairs and tourism department
11 to carry out the provisions of the Arts and Cultural District
12 Act. Money in the fund shall be disbursed on warrants signed
13 by the secretary of finance and administration pursuant to
14 vouchers signed by the secretary of cultural affairs and
15 tourism or the secretary's authorized representative."

16 SECTION 30. Section 16-6-5 NMSA 1978 (being Laws 1977,
17 Chapter 245, Section 18, as amended) is amended to read:

18 "16-6-5. STATE FAIR COMMISSION ADMINISTRATIVELY
19 ATTACHED TO CULTURAL AFFAIRS AND TOURISM DEPARTMENT.--The
20 state fair commission is administratively attached, as
21 defined in the Executive Reorganization Act, to the cultural
22 affairs and tourism department."

23 SECTION 31. Section 18-2-3 NMSA 1978 (being Laws 1977,
24 Chapter 246, Section 10, as amended) is amended to read:

25 "18-2-3. LIBRARY DIVISION--CREATION--DIRECTOR.--

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1 A. The "library division" is created within the
2 cultural affairs and tourism department.

3 B. Subject to the authority of the secretary of
4 cultural affairs and tourism, the administrative and
5 executive head of the library division is the "state
6 librarian". The state librarian shall be appointed by the
7 secretary."

8 **SECTION 32.** Section 18-2-23 NMSA 1978 (being Laws 2001,
9 Chapter 205, Section 1) is amended to read:

10 "18-2-23. FUND CREATED--ADMINISTRATION--PURPOSE.--

11 A. The "tribal libraries endowment fund" is created
12 in the state treasury. The fund shall consist of all money
13 appropriated to the fund and any grants, gifts and bequests
14 made to the fund. Any money in the fund shall not revert to
15 the general fund at the end of any fiscal year.

16 B. The tribal library program of the library
17 division of the [~~office of~~] cultural affairs and tourism
18 department shall administer the tribal libraries endowment
19 fund and shall make disbursements from the earnings on the
20 investment of the fund for the purpose of funding the
21 establishment, development and administration of tribal
22 libraries in New Mexico.

23 C. The library division [~~of the office of cultural~~
24 ~~affairs~~] may adopt rules and procedures as necessary or
25 appropriate to administer the tribal libraries endowment fund

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1 after consultation with the tribal librarians."

2 SECTION 33. Section 18-3-9 NMSA 1978 (being Laws 2005,
3 Chapter 277, Section 1) is amended to read:

4 "18-3-9. STATE MUSEUMS IMPROVEMENTS AND EXHIBITS FUND
5 CREATED--USE.--

6 A. The "state museums improvements and exhibits
7 fund" is created in the state treasury. The fund shall
8 consist of:

9 (1) money appropriated and transferred to the
10 fund;

11 (2) gifts, grants, donations and bequests; and

12 (3) fifteen percent of the state museums'
13 admission fees and facilities rentals.

14 B. Earnings from investment of the state museums
15 improvements and exhibits fund shall be credited to the fund.
16 Money in the fund is appropriated to the cultural affairs and
17 tourism department to be distributed to state museums
18 pursuant to the provisions of this section. Any unexpended
19 or unencumbered balance remaining at the end of a fiscal year
20 shall not revert. Disbursements from the fund shall be made
21 upon warrants drawn by the secretary of finance and
22 administration pursuant to vouchers signed by the secretary
23 of cultural affairs and tourism.

24 C. Money in the state museums improvements and
25 exhibits fund shall be expended by the cultural affairs and

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1 tourism department for development, implementation and
2 maintenance of exhibitions at state museums and for
3 maintenance and repairs of state museum facilities. Revenues
4 in the fund earned by a specific division shall be expended
5 by that division.

6 D. As used in this section, "state museum" means a
7 museum, state monument, cultural center or laboratory
8 administered by the cultural affairs and tourism department."

9 SECTION 34. Section 18-3A-3 NMSA 1978 (being Laws 1980,
10 Chapter 128, Section 3, as amended) is amended to read:

11 "18-3A-3. DEFINITIONS.--As used in the Natural History
12 and Science Museum Act:

13 A. "board" means the board of trustees of the New
14 Mexico museum of natural history and science;

15 B. "director" means the director of the division;

16 C. "division" means the natural history and science
17 museum division of the cultural affairs and tourism
18 department;

19 D. "museum" means the New Mexico museum of natural
20 history and science;

21 E. "natural history" means that which pertains to
22 the earth and its life, including but not limited to the
23 fields of biology, geology and related life sciences; and

24 F. "physical science" means that which pertains to
25 mathematics, physics, chemistry, astronomy and related

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1 sciences and technologies."

2 SECTION 35. Section 18-3A-4 NMSA 1978 (being Laws 1980,
3 Chapter 128, Section 4, as amended) is amended to read:

4 "18-3A-4. NATURAL HISTORY AND SCIENCE MUSEUM DIVISION--
5 CREATION--LOCATION--PROPERTY.--

6 A. The "natural history and science museum
7 division" is created within the cultural affairs and tourism
8 department. The principal facility of this division is the
9 "New Mexico museum of natural history and science" located in
10 Albuquerque. The site shall be held in the name of the
11 state.

12 B. All property, real or personal, now held or
13 subsequently acquired for the operation of the museum shall
14 be under the control and authority of the board.

15 C. Funds or other property received by gift,
16 endowment or legacy shall remain under the control of the
17 board and shall, upon acceptance, be employed for the purpose
18 specified."

19 SECTION 36. Section 18-3A-7 NMSA 1978 (being Laws 1987,
20 Chapter 38, Section 5, as amended) is amended to read:

21 "18-3A-7. BOARD--POWERS AND DUTIES.--The board shall:

22 A. exercise trusteeship over the collections of the
23 museum;

24 B. accept and hold title to all property for museum
25 use;

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1 C. review annually the performance of the director
2 and report its findings to the secretary of cultural affairs
3 and tourism;

4 D. enter into agreements or contracts with private
5 or public organizations, agencies or individuals for the
6 purpose of obtaining real or personal property for museum
7 use;

8 E. authorize the director to solicit and receive
9 funds or property of any nature for the development of the
10 museum, its collections and its programs;

11 F. adopt such rules as may be necessary to carry
12 out the provisions of this section; and

13 G. establish museum policy and determine the
14 mission and direct the development of the institution subject
15 to the decision of the secretary of cultural affairs and
16 tourism in event of conflict between the board and the
17 cultural affairs and tourism department."

18 SECTION 37. Section 18-4-6 NMSA 1978 (being Laws 1949,
19 Chapter 138, Section 5, as amended) is amended to read:

20 "18-4-6. LINCOLN MONUMENT--STATE MONUMENTS DIVISION--
21 POWERS AND DUTIES.--The state monuments division of the
22 cultural affairs and tourism department shall be entrusted
23 with the protection and preservation of the old Lincoln
24 county courthouse. The state monuments division:

25 A. shall maintain and operate the monument as a

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1 memorial and state museum of old Lincoln county [~~shall have~~
2 ~~power to~~];

3 B. may acquire and hold real estate in the name of
4 the state [~~and to~~];

5 C. may act in cooperation with the federal
6 government or any of its agencies in preserving the monument;
7 and [~~shall have power to~~]

8 D. may accept gifts, grants and donations from any
9 person, firm, corporation, agency or any group of persons for
10 the collections of the museum or the maintenance and
11 operation of the monument."

12 **SECTION 38.** Section 18-5-2 NMSA 1978 (being Laws 1978,
13 Chapter 70, Section 1, as amended) is amended to read:

14 "18-5-2. DEFINITIONS.--As used in Chapter 18, Article 5
15 NMSA 1978:

16 A. "commission" means the New Mexico arts
17 commission;

18 B. "creative arts" means the act of writing,
19 composing or designating and executing literature, including
20 poetry; drama; music, including opera and choral works;
21 ballet and dance; painting; sculpturing; graphic arts;
22 photography; crafts; architecture; and films and television;

23 C. "director" means the executive head of the
24 division;

25 D. "division" means the arts division of the

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1 cultural affairs and tourism department; and

2 E. "interpretative arts" means the act of
3 interpreting the creative arts, including the designing,
4 publishing, printing and collecting of books; the producing,
5 directing and performing of dramas; the performing of music
6 and the producing, directing and performing of operas and
7 choral works; the producing, directing and performing of
8 ballet and dance; the conservation of architecture; and the
9 producing, directing and performing of films and television."

10 SECTION 39. Section 18-5-6 NMSA 1978 (being Laws 1978,
11 Chapter 70, Section 5, as amended) is amended to read:

12 "18-5-6. DIVISION--CREATION--DIRECTOR--APPOINTMENT.--

13 A. The "arts division" is created within the
14 cultural affairs and tourism department.

15 B. Subject to the authority of the secretary of
16 cultural affairs and tourism, the administrative and
17 executive head of the arts division is the "director" of the
18 arts division. The director shall be hired by the secretary
19 from a list of three to five names supplied by the
20 commission."

21 SECTION 40. Section 18-5-7 NMSA 1978 (being Laws 1978,
22 Chapter 70, Section 6, as amended) is amended to read:

23 "18-5-7. DIVISION--POWERS--DUTIES.--The powers and
24 duties of the [arts] division [~~of the office of cultural~~
25 ~~affairs shall be~~] are to:

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- 1 A. [tø] advise and assist public agencies in
2 planning civic beautification;
- 3 B. [tø] foster appreciation for the fine arts;
- 4 C. [tø] make this state more appealing to the
5 world;
- 6 D. [tø] encourage the creative activity in the arts
7 of residents of this state and to attract to this state's
8 residency additional outstanding creators in the field of
9 fine arts through appropriate programs of publicity,
10 education, coordination and direct activities such as
11 sponsorship of performing and visual arts;
- 12 E. [tø] accept on behalf of the state such
13 donations of money, property or memorials as in its
14 discretion are suitable and shall best further the aims of
15 [~~Sections 18-5-1 through 18-5-7~~] Chapter 18, Article 5 NMSA
16 1978. The division [~~shall be empowered to~~] may accept any
17 additional gifts, contributions or bequests from private
18 persons, corporations, foundations or agencies or the federal
19 government. Such money so gained may be reemployed as part
20 of a revolving fund to be used to further the purpose of
21 [~~Sections 18-5-1 through 18-5-7~~] Chapter 18, Article 5 NMSA
22 1978;
- 23 F. [tø] make, through its director, rules [~~and~~
24 ~~regulations~~] necessary to administer the division and as
25 provided by law; and

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1 G. [tø] perform other duties as provided by law."

2 SECTION 41. Section 18-6-5 NMSA 1978 (being Laws 1969,
3 Chapter 223, Section 5, as amended) is amended to read:

4 "18-6-5. COMMITTEE--POWERS AND DUTIES.--The primary
5 function of the committee is to review proposals for the
6 preservation of cultural properties. The committee is
7 authorized to take such actions as are reasonable and
8 consistent with law to identify cultural properties and to
9 advise on the protection and preservation of those
10 properties. Among such actions as may be necessary and
11 proper to the fulfillment of these responsibilities, and
12 without being limited hereby, the committee:

13 A. shall determine what constitutes historical,
14 archaeological, scientific, architectural and other cultural
15 significance for the purpose of identifying cultural
16 properties as used in the Cultural Properties Act;

17 B. shall prepare and keep up to date the official
18 register. This official register shall be composed of
19 properties identified by the committee as having historical
20 or other cultural significance and integrity, being suitable
21 for preservation and having educational significance;

22 C. shall prepare and maintain proper documentation
23 of the historic or other significance of cultural properties.
24 The committee is granted access to all state and local public
25 documents that may be necessary for the documentation, and

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1 such state and local agencies as have custody of such
2 documents are authorized to allow the committee to examine
3 and reproduce those documents useful for the documentation;

4 D. shall inspect all registered cultural properties
5 periodically to [~~assure~~] ensure proper cultural or historical
6 integrity and proper maintenance. The inspection may be made
7 by an authorized representative of the committee or the
8 historic preservation division of the [~~office of~~] cultural
9 affairs and tourism department. Such inspection shall be
10 made only with the written consent of the owner or [~~his~~] the
11 owner's authorized representative;

12 E. shall, based upon the inspection of a registered
13 cultural property, recommend such repairs, maintenance and
14 other measures as should be taken to maintain registered
15 status;

16 F. shall issue [~~regulations~~] rules pertaining to
17 the identification, preservation and maintenance of
18 registered cultural properties in order to maintain the
19 integrity of those properties;

20 G. may delete from the official register any
21 registered cultural property whose owner does not comply with
22 the committee's [~~regulations~~] rules or follow its
23 recommendations for repair and maintenance or [~~which~~] that,
24 upon presentation of further evidence, does not merit
25 continued official registry;

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1 H. may recommend to the museum resources division
2 of the [~~office of~~] cultural affairs and tourism department
3 and other public administrators of registered cultural
4 properties measures for the investigation, restoration and
5 protection of such properties;

6 I. may encourage and render technical advice to
7 private owners of registered cultural properties in order
8 that such properties may be preserved;

9 J. may encourage and provide technical assistance
10 to municipalities and counties in acquiring, preserving and
11 developing cultural properties within their jurisdictions;

12 K. shall cooperate with federal, state, local and
13 private agencies and persons engaged in the administration,
14 development or other work relating to cultural properties
15 within the state;

16 L. shall pursue all activities in a manner
17 consistent with state and federal laws and regulations;

18 M. may encourage and promote public appreciation of
19 New Mexico's historical and cultural heritage by:

20 (1) reviewing for accuracy the proposed
21 publication of information on cultural properties; and

22 (2) reviewing the accuracy and adequacy of
23 proposed marking of cultural properties;

24 N. may [~~utilize~~] use the assistance of individuals,
25 local organizations, state agencies and others interested in

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1 the identification and preservation of cultural properties;

2 O. may issue, with the concurrence of the state
3 archaeologist and the state historic preservation officer,
4 permits for the examination or excavation of sites and the
5 collection or removal of objects of antiquity or general
6 scientific interest, where such sites or objects are located
7 on state lands, to institutions ~~[which]~~ that the committee
8 may deem to be properly qualified to conduct such
9 examination, excavation or collection, subject to such rules
10 ~~[and regulations]~~ as the committee may prescribe; provided
11 that the examinations, excavations and collections are
12 undertaken by reputable museums, universities, colleges or
13 other historical, scientific or educational institutions or
14 societies approved by the committee, with a view toward
15 disseminating knowledge about cultural properties; and
16 provided that a summary report of such investigations,
17 containing relevant maps, documents, drawings and
18 photographs, be submitted to the committee, which shall in
19 turn submit the report to the appropriate agency or make
20 other appropriate disposition of the report; and provided
21 further that all specimens so collected shall be the property
22 of New Mexico and that prior arrangements be made for the
23 disposition of specimens derived from such investigations in
24 an appropriate institution of the state or for loan of such
25 specimens to qualified institutions in or out of the state;

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1 P. shall provide advice to the state historic
2 preservation officer [~~is~~] of the historic preservation
3 division and to the director of the museum resources division
4 of the [~~office of~~] cultural affairs and tourism department on
5 cultural properties; and

6 Q. shall make, in conjunction with the historic
7 preservation division, an annual report on its activities to
8 the governor and the legislature. The report may contain
9 recommendations for the more effective preservation of New
10 Mexico's historic and cultural heritage."

11 SECTION 42. Section 18-6-6 NMSA 1978 (being Laws 1969,
12 Chapter 223, Section 6, as amended) is amended to read:

13 "18-6-6. CULTURAL AFFAIRS AND TOURISM DEPARTMENT--
14 POWERS AND DUTIES RELATING TO THE CULTURAL PROPERTIES ACT.--

15 A. The cultural affairs and tourism department is
16 responsible for administering, developing and maintaining all
17 registered cultural properties in its ownership or custody.

18 B. Unless other locations are deemed more
19 appropriate by the committee, in consultation with the museum
20 of New Mexico, because of the nature of the property
21 involved, the cultural affairs and tourism department shall
22 be the depository for all collections made under the
23 provisions of the Cultural Properties Act and shall make
24 available material from such collections to museums in and
25 out of the state on the request of the governing bodies of

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1 those museums when, in the opinion of the department, such
2 use is appropriate and when arrangements are made for the
3 safe custodianship and public exhibition of the material in
4 accordance with department rules. The museum of New Mexico
5 shall maintain a record of the location of all such
6 collections.

7 C. The cultural affairs and tourism department may
8 seek and accept gifts, donations and grants, subject to the
9 provisions of Subsection B of Section 18-6-7 NMSA 1978, to be
10 used to acquire, preserve or restore registered cultural
11 properties.

12 D. The cultural affairs and tourism department may
13 acquire by gift, purchase or, if no other means of
14 acquisition are available, condemnation any cultural property
15 or interest therein sufficient to preserve such property.
16 Cultural properties so acquired shall be administered by the
17 department or other appropriate state agencies in accordance
18 with Subsections A and B of this section.

19 E. The cultural affairs and tourism department may
20 enter into agreements with the committee to provide
21 assistance in carrying out the duties of the committee."

22 SECTION 43. Section 18-6-7 NMSA 1978 (being Laws 1969,
23 Chapter 223, Section 7, as amended) is amended to read:

24 "18-6-7. HISTORIC PRESERVATION DIVISION--PLANNING--
25 FISCAL ADMINISTRATION AND COOPERATION FOR PURPOSES OF THE

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1 CULTURAL PROPERTIES ACT.--

2 A. The state historic preservation officer of the
3 historic preservation division of the cultural affairs and
4 tourism department shall, with the concurrence of the
5 committee, prepare a long-range plan for the preservation of
6 cultural properties, including but not limited to the
7 identification, acquisition, restoration and protection of
8 historic and cultural properties and the maintenance and
9 expansion of statewide historic and prehistoric site
10 databases.

11 B. The historic preservation division shall
12 administer funds that are received, controlled and disbursed
13 for the purposes of the Cultural Properties Act, unless such
14 funds are specifically granted or appropriated to another
15 agency.

16 C. Consistent with the Cultural Properties Act, the
17 historic preservation division shall cooperate in all matters
18 with the committee and other divisions of the cultural
19 affairs and tourism department."

20 SECTION 44. Section 18-6-8 NMSA 1978 (being Laws 1977,
21 Chapter 246, Section 38, as amended) is amended to read:

22 "18-6-8. STATE HISTORIC PRESERVATION OFFICER--
23 APPOINTMENT--QUALIFICATIONS--DUTIES.--

24 A. The "historic preservation division" is created
25 within the cultural affairs and tourism department.

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1 B. The state historic preservation officer shall be
2 the director of the division and shall be hired by the
3 secretary of cultural affairs and tourism with the consent of
4 the governor. The position's qualifications shall be
5 consistent with but not limited to the following:

6 (1) a graduate degree in American history,
7 anthropology, architecture or historic preservation;

8 (2) at least five years of professional
9 experience in American history, anthropology, architecture or
10 historic preservation or any combination of these; or

11 (3) a substantial contribution through
12 research and publication to the body of scholarly knowledge
13 in the field of American history, anthropology, architecture
14 or historic preservation or any combination of these.

15 C. The state historic preservation officer shall
16 administer the Cultural Properties Act, including but not
17 limited to being administrative head of all Cultural
18 Properties Act functions assigned to the historic
19 preservation division by law or executive order. In
20 addition, the state historic preservation officer shall
21 coordinate all duties performed by, and cooperate with, the
22 committee, the secretary of cultural affairs and tourism and
23 any other entities, public or private, involved with cultural
24 properties.

25 D. The state historic preservation officer, in

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1 conjunction with the secretary of cultural affairs and
2 tourism:

3 (1) shall provide staff to the committee;

4 (2) shall maintain the state register of
5 cultural properties;

6 (3) may fund historic site surveys and may
7 fund restorations;

8 (4) shall administer historic preservation tax
9 benefit programs; and

10 (5) shall review state undertakings to
11 determine their effect upon significant historic properties."

12 SECTION 45. Section 18-6-15 NMSA 1978 (being Laws 1969,
13 Chapter 223, Section 13, as amended) is amended to read:

14 "18-6-15. STATE ARCHAEOLOGIST.--The state archaeologist
15 in the cultural affairs and tourism department is designated
16 as "state archaeologist" for the purposes of the Cultural
17 Properties Act. The state archaeologist shall be
18 professionally recognized in the discipline of archaeology,
19 shall have achieved recognition for accomplishments in [~~his~~]
20 the state archaeologist's field in the American southwest and
21 shall have a specialized knowledge of New Mexico."

22 SECTION 46. Section 18-6-20 NMSA 1978 (being Laws 1987,
23 Chapter 7, Section 3, as amended) is amended to read:

24 "18-6-20. DEFINITIONS.--As used in the Historic
25 Preservation Loan Act:

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1 A. "committee" means the cultural properties review
2 committee;

3 B. "division" means the historic preservation
4 division of the cultural affairs and tourism department;

5 C. "fund" means the historic preservation loan
6 fund;

7 D. "property owner" means the sole owner, joint
8 owner, owner in partnership or corporate owner of a
9 registered cultural property. As used in this subsection,
10 the term "property owner" includes the owner of a leasehold
11 interest in a registered cultural property, if the term of
12 the lease is not less than nineteen years; and

13 E. "registered cultural property" means a site,
14 structure, building or object entered in the state register
15 of cultural properties or the national register of historic
16 places or both."

17 **SECTION 47.** Section 18-6-25 NMSA 1978 (being Laws 2007,
18 Chapter 299, Section 2 and Laws 2007, Chapter 300, Section 2)
19 is amended to read:

20 "18-6-25. DEFINITIONS.--As used in the Reburial Grounds
21 Act:

22 A. "department" means the cultural affairs and
23 tourism department;

24 B. "descendant group" means persons demonstrably
25 related to the remains by consanguinity, family affiliation,

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1 clan or direct historical association and includes a Native
2 American nation, band, tribe or pueblo in New Mexico;

3 C. "funerary object" means an object or artifact
4 associated with a human burial;

5 D. "reburial grounds" means state or federal land
6 set aside pursuant to the Reburial Grounds Act that secures
7 and preserves unmarked graves for remains not claimed by a
8 descendant group;

9 E. "remains" means a human body, skeletal remains
10 or mummified remains discovered during construction and other
11 projects or exposed through erosion, excavation or accident
12 or other means on state, federal and private lands and
13 includes a funerary object or artifact associated with the
14 remains; and

15 F. "state land" means property owned, controlled or
16 operated by a department, agency, institution or political
17 subdivision of the state."

18 SECTION 48. Section 18-6A-2 NMSA 1978 (being Laws 1993,
19 Chapter 176, Section 2, as amended) is amended to read:

20 "18-6A-2. DEFINITIONS.--As used in the Cultural
21 Properties Protection Act:

22 A. "committee" means the cultural properties review
23 committee;

24 B. "cultural property" means a structure, place,
25 site or object having historic, archaeological, scientific,

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1 architectural or other cultural significance;

2 C. "division" means the historic preservation
3 division of the cultural affairs and tourism department;

4 D. "fund" means the cultural properties restoration
5 fund;

6 E. "interpretation" means the inventory,
7 registration, mapping and analysis of cultural properties and
8 public educational programs designed to prevent the loss of
9 cultural properties;

10 F. "officer" means the state historic preservation
11 officer;

12 G. "preservation" means sustaining the existing
13 form, integrity and material of a cultural property or the
14 existing form and vegetative cover of a cultural property and
15 may include protective maintenance or stabilization where
16 necessary in the case of archaeological sites;

17 H. "professional survey" means an archaeological or
18 architectural survey;

19 I. "protection" means safeguarding the physical
20 condition or environment of a cultural property from
21 deterioration or damage caused by weather or other natural,
22 animal or human intrusions;

23 J. "restoration" means recovering the general
24 historic appearance of a cultural property or the form and
25 details of an object or structure by removing incompatible

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1 natural or human-caused accretions and replacing missing
2 elements as appropriate;

3 K. "stabilization" means reestablishing the
4 structural stability or weather-resistant condition of a
5 cultural property or arresting deterioration that may lead to
6 structural failure;

7 L. "state agency" means a department, agency,
8 institution or political subdivision of the state; and

9 M. "state land" means property owned, controlled or
10 operated by a state agency."

11 SECTION 49. Section 18-7-1 NMSA 1978 (being Laws 1978,
12 Chapter 72, Section 1, as amended) is amended to read:

13 "18-7-1. MUSEUM OF SPACE HISTORY DIVISION--CREATION.--
14 The "museum of space history division" is created within the
15 cultural affairs and tourism department. The principal
16 facility of the division is the "museum of space history"
17 located in Alamogordo. The site shall be held in the name of
18 the state."

19 SECTION 50. Section 18-7-4 NMSA 1978 (being Laws 1978,
20 Chapter 72, Section 4, as amended) is amended to read:

21 "18-7-4. DIRECTOR--EMPLOYMENT.--The director of the
22 museum of space history division shall be hired by the
23 secretary of cultural affairs and tourism."

24 SECTION 51. Section 18-8-3 NMSA 1978 (being Laws 1989,
25 Chapter 13, Section 3, as amended) is amended to read:

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1 "18-8-3. DEFINITIONS.--As used in the New Mexico
2 Prehistoric and Historic Sites Preservation Act:

3 A. "corporation" means a nonprofit corporation,
4 formally recognized as tax exempt under Section 501(c)3 of
5 the Internal Revenue Code of 1986, whose declared purposes
6 include the investigation, preservation or conservation of
7 significant prehistoric or historic sites;

8 B. "division" means the historic preservation
9 division of the cultural affairs and tourism department; and

10 C. "significant prehistoric or historic sites"
11 means properties listed in the state register of cultural
12 properties or national register of historic places."

13 SECTION 52. Section 18-11-3 NMSA 1978 (being Laws 1991,
14 Chapter 48, Section 3, as amended) is amended to read:

15 "18-11-3. DEFINITIONS.--As used in the Farm and Ranch
16 Heritage Museum Act:

17 A. "board" means the board of the farm and ranch
18 heritage museum;

19 B. "director" means the director of the division;

20 C. "division" means the farm and ranch heritage
21 museum division of the cultural affairs and tourism
22 department;

23 D. "farm and ranch" means that which pertains to
24 the field of agriculture and the various industries that
25 affect agriculture, including but not limited to agronomy,

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1 livestock management, veterinary medicine, agricultural
2 nutrition and other related agricultural businesses and
3 sciences; and

4 E. "museum" means the principal facility of the
5 division, including all real and personal property of the
6 division."

7 SECTION 53. Section 18-11-4 NMSA 1978 (being Laws 1991,
8 Chapter 48, Section 4, as amended) is amended to read:

9 "18-11-4. DIVISION CREATED--OPERATION--LOCATION--
10 PROPERTY.--

11 A. The "farm and ranch heritage museum division" is
12 created within the cultural affairs and tourism department.

13 B. The "farm and ranch heritage museum" shall be
14 located on the campus of New Mexico state university in Dona
15 Ana county.

16 C. All property, real or personal, now held or
17 subsequently acquired for the operation of the museum shall
18 be under the control and authority of the cultural affairs
19 and tourism department.

20 D. Funds or other property received by gift,
21 endowment or legacy shall remain under the control of the
22 cultural affairs and tourism department and shall, upon
23 acceptance, be employed for the purpose specified."

24 SECTION 54. Section 18-12-2 NMSA 1978 (being Laws 1993,
25 Chapter 42, Section 2, as amended) is amended to read:

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1 "18-12-2. DEFINITIONS.--As used in the National
2 Hispanic Cultural Center Act:

3 A. "board" means the board of directors of the
4 center;

5 B. "center" means the national Hispanic cultural
6 center;

7 C. "division" means the Hispanic cultural division
8 of the cultural affairs and tourism department; and

9 D. "director" means the director of the division."

10 SECTION 55. Section 18-12-3 NMSA 1978 (being Laws 1993,
11 Chapter 42, Section 3, as amended) is amended to read:

12 "18-12-3. HISPANIC CULTURAL DIVISION--CREATION--
13 PROPERTY.--

14 A. The "Hispanic cultural division" is created
15 within the cultural affairs and tourism department. The
16 principal facility of this division shall be known as the
17 "national Hispanic cultural center".

18 B. All property, real or personal, now held or
19 subsequently acquired for the operation of the center shall
20 be under the control and authority of the board.

21 C. Funds or other property received by gift,
22 endowment or legacy shall remain under the control of the
23 board and shall, upon acceptance, be employed for the purpose
24 specified."

25 SECTION 56. Section 18-14-3 NMSA 1978 (being Laws 2003,
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1 Chapter 250, Section 3, as amended) is amended to read:

2 "18-14-3. MUSEUM--LOCATION--PROPERTY.--

3 A. The "New Mexico film museum" is created within
4 the cultural affairs and tourism department. The museum
5 shall be located in Santa Fe.

6 B. All real or personal property held or
7 subsequently acquired for the operation of the museum shall
8 be under the control and authority of the board.

9 C. Funds or other property received as a gift,
10 endowment or legacy shall remain under the control of the
11 board and shall, upon acceptance, be used for the operation
12 of the museum."

13 SECTION 57. Section 18-15-2 NMSA 1978 (being Laws 2007,
14 Chapter 83, Section 2) is amended to read:

15 "18-15-2. DEFINITIONS.--As used in the Rural Library
16 Development Act:

17 A. "division" means the library division of the
18 cultural affairs and tourism department; and

19 B. "rural library" means a public library in a
20 municipality or unincorporated village, [~~tribes, Indian~~
21 ~~nations, pueblos~~] a tribe, an Indian nation, a pueblo or a
22 community with a population of less than fifteen thousand as
23 determined by the latest federal decennial census."

24 SECTION 58. Section 18-16-2 NMSA 1978 (being Laws 2009,
25 Chapter 13, Section 2) is amended to read:

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1 "18-16-2. DEFINITIONS.--As used in the Music Commission
2 Act:

3 A. "commission" means the music commission;

4 B. "department" means the cultural affairs and
5 tourism department; and

6 C. "division" means the arts division of the
7 department."

8 SECTION 59. Section 18-17-2 NMSA 1978 (being Laws 2009,
9 Chapter 33, Section 2) is amended to read:

10 "18-17-2. DEFINITIONS.--As used in the Veterans Museum
11 Act:

12 A. "board" means the board of trustees of the
13 museum;

14 B. "director" means the director of the division;

15 C. "division" means the veterans museum division of
16 the cultural affairs and tourism department;

17 D. "museum" means the New Mexico veterans museum;
18 and

19 E. "secretary" means the secretary of cultural
20 affairs and tourism."

21 SECTION 60. Section 18-17-3 NMSA 1978 (being Laws 2009,
22 Chapter 33, Section 3) is amended to read:

23 "18-17-3. VETERANS MUSEUM DIVISION CREATED--LOCATION--
24 PROPERTY.--

25 A. The "veterans museum division" is created in the
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1 cultural affairs and tourism department. The principal
2 facility of the division is the "New Mexico veterans museum"
3 located in Las Cruces. The site shall be held in the name of
4 the state.

5 B. All property, real or personal, now held or
6 subsequently acquired for the operation of the museum shall
7 be under the control and authority of the board.

8 C. Funds or other property received by gift,
9 endowment or legacy shall remain under the control of the
10 board and shall, upon acceptance, be employed for the purpose
11 specified."

12 SECTION 61. Section 21-2-6 NMSA 1978 (being Laws 1978,
13 Chapter 54, Section 1, as amended) is amended to read:

14 "21-2-6. STATEWIDE PLANNING--PARTICIPATING AGENCIES AND
15 PERSONS.--

16 A. The state commission in carrying out its
17 planning activities for post-secondary education shall
18 consult with and invite the active participation of:

19 (1) representatives of post-secondary
20 educational institutions of the several types enumerated in
21 Paragraph (2) of Subsection A of Section 21-2-2 NMSA 1978;

22 (2) the public education commission;

23 (3) the public education department;

24 (4) representatives of public and private
25 elementary and secondary schools;

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- 1 (5) the secretary of [~~labor~~] workforce
2 solutions;
3 (6) the cultural affairs and tourism
4 department;
5 (7) the apprenticeship council;
6 (8) the economic development department;
7 (9) the state advisory council on vocational
8 education;
9 (10) the secretary of finance and
10 administration or the secretary's designee;
11 (11) persons familiar with the education needs
12 of persons with a disability and persons disadvantaged by
13 economic, racial or ethnic status;
14 (12) representatives of business, industry,
15 organized labor and agriculture;
16 (13) the general public; and
17 (14) private in-state post-secondary
18 institutions.

19 B. Whenever the planning activities carried out
20 under the provisions of Section 21-2-5 NMSA 1978 are
21 concerned with the types of post-secondary education
22 enumerated in Subparagraphs (a) through (e) of Paragraph (1)
23 of Subsection A of Section 21-2-2 NMSA 1978, the state
24 commission shall directly involve the public education
25 commission and the public education department in all

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1 planning activities."

2 SECTION 62. Section 60-1A-3 NMSA 1978 (being Laws 2007,
3 Chapter 39, Section 3) is amended to read:

4 "60-1A-3. COMMISSION CREATED--APPOINTMENT OF MEMBERS--
5 TERMS OF OFFICE.--

6 A. The "state racing commission" is created and is
7 administratively attached to the cultural affairs and tourism
8 department.

9 B. The commission shall consist of five members, no
10 more than three of whom shall be members of the same
11 political party. The commission members shall be appointed
12 by the governor and be confirmed by the senate. All members
13 of the commission shall hold at-large positions on the
14 commission.

15 C. At least three of the members of the commission
16 shall be practical breeders of racehorses within New Mexico.

17 D. A commission member shall have primary residence
18 in New Mexico and shall be of high character and reputation
19 so that public confidence in the administration of horse
20 racing is maintained.

21 E. The term of each member of the commission shall
22 be six years from the date of the member's appointment. The
23 member shall serve until a successor is appointed. In the
24 case of a vacancy in the membership of the commission, the
25 governor shall fill the vacancy by appointment for the

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1 unexpired term.

2 F. A person shall not be eligible for appointment
3 as a member of the commission who is an officer, official or
4 director in a corporation conducting horse racing within the
5 state.

6 G. Members of the commission shall receive no
7 salary, but each member of the commission shall receive per
8 diem and mileage pursuant to the Per Diem and Mileage Act.

9 H. The commission may appoint an executive director
10 and establish the executive director's duties and
11 compensation."

12 **SECTION 63.** Section 67-3-17 NMSA 1978 (being Laws 1967,
13 Chapter 20, Section 2, as amended) is amended to read:

14 "67-3-17. SNOW REMOVAL FROM DESIGNATED SKIING AREA
15 PARKING FACILITIES.--The state transportation commission is
16 hereby authorized and empowered to remove any snow that it
17 deems to be an obstacle to the parking of motor vehicles at
18 any parking area that serves a skiing area. If the parking
19 area is on lands owned by or leased from the state,
20 municipal, county or federal government, the cost of snow
21 removal shall be borne by the state as in the case of road
22 maintenance. If the parking facilities are on private lands,
23 the person in control of the skiing area shall be liable for
24 the payment of such sum, not less than actual cost, as the
25 state transportation commission decides to be the reasonable

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1 value of such snow removal. For the purposes of this
2 section, the phrase "skiing area" shall mean any lands or
3 areas used for the sport of skiing and recognized by the
4 cultural affairs and tourism department as a tourist
5 attraction."

6 SECTION 64. Section 67-16-3 NMSA 1978 (being Laws 1985,
7 Chapter 23, Section 3, as amended) is amended to read:

8 "67-16-3. DEFINITIONS.--As used in the Litter Control
9 and Beautification Act:

10 A. "keep America beautiful system" means a
11 comprehensive program to improve waste handling practices and
12 the control of litter;

13 B. "keep New Mexico beautiful, incorporated" is the
14 statewide organization that is the official clearinghouse for
15 beautification projects in the state;

16 C. "council" means the litter control council;

17 D. "department" means the cultural affairs and
18 tourism department;

19 E. "litter" means weeds, graffiti and all waste
20 material, including disposable packages or containers, but
21 not including the waste of the primary processes of mining,
22 logging, sawmilling or farming;

23 F. "person" means an individual, corporation,
24 partnership, association, firm, receiver, guardian, trustee,
25 executor, administrator, fiduciary or representative or group

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1 of individuals or entities of any kind;

2 G. "public place" means an area that is used or
3 held out for use by the public, whether owned or operated by
4 public or private interests; and

5 H. "recycling" means the collection, separation or
6 processing and return to the economic mainstream of raw
7 materials or products that would otherwise become solid
8 waste."

9 SECTION 65. TEMPORARY PROVISION--TRANSFERS.--On the
10 effective date of this act:

11 A. all functions, personnel, money, appropriations,
12 records, files, furniture, equipment and other property of
13 the cultural affairs department shall be transferred to the
14 cultural affairs and tourism department;

15 B. all functions, personnel, money, appropriations,
16 records, files, furniture, equipment and other property of
17 the tourism department shall be transferred to the cultural
18 affairs and tourism department;

19 C. all contractual obligations of the cultural
20 affairs department shall be binding on the cultural affairs
21 and tourism department;

22 D. all contractual obligations of the tourism
23 department shall be binding on the cultural affairs and
24 tourism department;

25 E. all statutory references to cultural affairs

.184041.1SA

underscoring material = new
[bracketed material] = delete

1 department shall be deemed to be references to the cultural
2 affairs and tourism department;

3 F. all statutory references to the tourism
4 department shall be deemed to be references to the cultural
5 affairs and tourism department; and

6 G. any money remaining in the Fort Stanton
7 development fund shall be transferred to the general fund.

8 SECTION 66. REPEAL.--

9 A. The Fort Stanton development commission and
10 fund, Sections 9-6-12 through 9-6-14 NMSA 1978 (being Laws
11 2003, Chapter 126, Sections 1 through 3) are repealed.

12 B. The Tourism Department Act, Sections 9-15A-1
13 through 9-15A-11 NMSA 1978 (being Laws 1991, Chapter 21,
14 Sections 1 through 4; Laws 2003, Chapter 299, Section 1; Laws
15 1991, Chapter 21, Sections 5 through 7; Laws 1996, Chapter
16 25, Section 1; Laws 1993, Chapter 101, Sections 10 and 11;
17 and Laws 2007, Chapter 286, Sections 2 and 3 and Laws 2007,
18 Chapter 287, Sections 2 and 3, as amended) is repealed.

19 C. The Intertribal Ceremonial Act, Sections 9-15C-1
20 through 9-15C-5 NMSA 1978 (being Laws 2005, Chapter 219,
21 Sections 1 through 5, as amended) is repealed.